

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

DAVID R. SIMCOKE,

Petitioner,

v.

**CIVIL ACTION NO. 1:07cv77
(Judge Keeley)**

WAYNE PHILLIPS,

Respondent.

ROSEBORO NOTICE

On July 25, 2007, the respondent filed a Motion to Dismiss the petitioner's petition for writ of habeas corpus. The Court notes that the petitioner is proceeding pro se. The Court has a mandatory duty to advise the petitioner of his right to file responsive material, and to alert him to the fact that his failure to so respond might result in the entry of an order of dismissal against him. Davis v. Zahradrich, 600 F.2d 458, 460 (4th Cir. 1979); Roseboro v. Garrison, 528 F.2d 309, 310 (4th Cir. 1975). The petitioner is so advised.

Within thirty (30) days of entry of this Order, the petitioner shall file any opposition explaining why his case should not be dismissed. The petitioner is advised that he must serve the respondent with any response he files.

IT IS SO ORDERED.

The Clerk of the Court is directed to provide a copy of this Order to the pro se petitioner and to counsel of record.

DATED: July 27, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE